

businesses that provide sales tax revenue to the City that should be considered. The Chamber believes it is unfair to put an initiative restriction on certain types of businesses. The Chamber is not in favor of any size limitations whatsoever on large retail stores in Lodi.

- Steve Dutra, Parks Superintendent, invited Council and citizens to the May 21 dedication ceremony at Lodi Lake to celebrate the completion of the Phase 2 Trail Project and the 70<sup>th</sup> anniversary of Lodi Lake Park.
- Betsy Fiske stated that the intention of the Small City Preservation Committee had never been to include car dealerships in the definition of large-scale retail stores or structures. She noted that the Council had received a letter from the Committee's attorney stating its intent, along with a press release provided to local newspapers yesterday (filed). She explained that the Committee supports locally-owned businesses, rather than corporations from outside the city or state. She displayed a stack of petition sections and announced that over 2,825 signatures had been gathered in only three weeks. She anticipated that an additional 1,000 signatures could be obtained by the weekend. She distributed a list outlining four choices for Council to consider and a petition section (both filed) with the words "For the purposes of this subsection, the term 'gross floor area' shall include outside retail areas" highlighted, which the Committee suggested (in choice 3) that Council exclude. She asked Council to consider the four choices at the next regularly scheduled City Council meeting.

Mayor Pro Tempore Beckman questioned why the initiative stipulates that an election must be held to approve all new businesses over 125,000 square feet. He pointed out that the Committee has stated it is opposed to large-scale retail; however, the requirement to hold elections prior to approving businesses of this size is contradictory and makes it appear that some businesses may be okay and some are not.

Ms. Fiske replied that the Committee's intent is to allow the voters of Lodi to decide on all businesses over 125,000 square feet.

In response to Mayor Hansen, Ms. Fiske explained that the language pertaining to outside retail areas was meant to address stores that bring out merchandise to sell in their parking lots. She reported that someone vetted the signatures on the petition and verified that they were registered voters in the City of Lodi.

Council Member Howard asked whether circulators of the petition fully informed the signers that it was not the proponents' intent to include auto dealerships and that the size was increased from 100,000 square feet to 125,000 square feet.

Ms. Fiske could not speak for all the circulators; however, she told signers that the purpose of the initiative was to limit retail establishments to 125,000 square feet and to exceed that size would require a public vote.

Discussion ensued regarding previously agendaized items related to this topic that were considered on March 17 and April 7. Interim City Attorney Schwabauer determined that Council's rules on reconsideration would not apply in this instance, because what was being requested tonight was different from Item 1-5 on the April 7 agenda, i.e. "placing a ballot measure establishing 'Big-Box' size limits on the November 2, 2004 ballot."

Mayor Hansen asked that Ms. Fiske's request be placed on the June 2 City Council agenda.

- Joanne Mounce thanked everyone who participated last Sunday in the Celebration on Central event.
- Ann Cerney thanked Mayor Hansen for allowing the Large-Scale Retail Initiative matter to be placed on the June 2 agenda.
- Robert Fenton expressed his opinion that the Large-Scale Retail Initiative is about "a big-box." He recalled that Committee members tried to get the matter resolved at the Planning Commission level prior to going to Council. He urged Council to amend the language of the initiative to exclude the words "outside retail areas" and place the measure on the ballot.

**CITY CLERK'S NOTE:**

This communication is not specifically related to Item 1-5 on the May 19, 2004 City Council Agenda; however, there is a correlation that Council may want to consider and for this reason it has been distributed as a "Blue Sheet".

FOR IMMEDIATE RELEASE

RECEIVED

May 18, 2004

2004 MAY 18 PM 1:50

CITY CLERK  
CITY OF LODI

Local Citizen's Group Seeks Help from City Council

The Small City Preservation Committee, a group formed by local Lodi residents, will appeal to the City Council this week to place an initiative on the November ballot allowing voters to decide on big-box retail developments that exceed 125,000 square feet.

The group has been collecting signatures for their own citizen's initiative for the past few weeks and is close to obtaining the required number of signatures. Recently they were informed that their initiative may adversely affect local car dealerships. "Our intention was never to hurt local business, or any business," stated Committee Chairwoman Betsy Fiske. "We worked closely with the City Council and the City Attorney to draft the language for our initiative. They were fully aware of our intent. If there were problems, they should have informed us before we collected our signatures."

In light of potential problems, the group hopes that the Lodi City Council will consider placing the initiative on the ballot after redrafting the language to meet the intentions of both the group and the petition signers. If the City Council refuses, the group intends to redraft their initiative and circulate petitions for a Special Election early next year. "The feedback, from the people who have signed in support, has bolstered our position that this is important to the citizens of Lodi," said group member Robin Knowlton. "The Council has the power to save the city thousands of dollars on a Special Election by simply allowing the voters to decide in November." Information from the San Joaquin County Registrar of Voters' office puts the cost of a special election at \$3.50 per voter which, for Lodi's approximately 26,500 registered voters, would be \$92,750.

The deadline to submit their petitions in time for the upcoming election is the first week in June, which would not leave enough time for the group to re-collect the required number of signatures. There is not another regularly scheduled election until March, 2006.

Contact: Betsy Fiske (209) 369-4489

X CC	HR
X CM	IS
X CA	LIE
X CD	PF
— EUD	PD
— FIN	PW
— FD	COM

## LAW OFFICES OF DONALD B. MOONEY

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May 18, 2004

Re: *Small City Preservation Committee's Initiative*

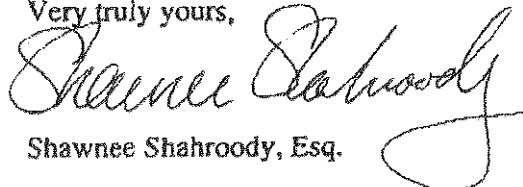
To Whom it May Concern:

This letter is written on behalf of the Small City Preservation Committee to inform you that the Committee does not intend the Initiative to interpret "large-scale retail stores" or "large-scale retail structures" as including car dealerships. The Committee does not interpret a car dealership as a large-scale retail store. The Committee's interpretation of large-scale retail stores is best described as: super-sized retail stores that sell everyday merchandise and services such as clothing, groceries, furniture, hardware etc.

The Initiative describes its purpose as ensuring sensibly scaled retail development. Lodi has a number of shopping centers providing the community with merchandise and services. The Initiative intends to cover the large-scale retail stores in excess of 125,000 square feet that affect the existing shopping centers by causing the existing stores to go out of business, thus destabilizing the shopping centers, and leaving empty, boarded-up buildings, which increase crime and blight. As a result, the surrounding areas become at risk of losing the merchandise and services offered by the existing businesses. A large-scale retail store often closes down existing stores, and replaces it with a superstore, which also results in a large, empty store. The Initiative intends to protect and preserve Lodi's existing community character and fabric, and promote the continuation of neighborhood, downtown, and community shopping centers.

We hope this letter will assist you in your understanding of the Initiative's intent and that the Committee does not intend it to include car dealerships as "large-scale retail stores" or "large-scale retail structures." Thank you for your cooperation and attention to this matter. Please feel free to contact us with any questions or concerns.

Very truly yours,



Shawnee Shahroody, Esq.

Cc: Small City Preservation Committee

filed 5-19-04

May 19, 2004

## Perceived Four Choices for Lodi's Sensible Scale and Character Initiative

1) The initiative is placed on the ballot as is, with the City acknowledging that the intention of the Small City Preservation Committee is that it does not apply to car dealerships and, if it passes, advising the Community Development Director of same, 2) the initiative is placed on the ballot as is and any retail businesses over 125,000 sq. ft., including car dealerships, would require voter approval, 3) which is our preference, the City amends the language of our initiative to exclude "outside retail areas" and places it as a measure on the ballot, or 4) and most undesirable, our group has the language amended and we start all over again, collecting signatures, and proceed to a special election which will cost upwards of \$92,750. That's \$3.50 per voter for all 26,500 plus registered voters in Lodi, according to the County Registrar's office.

Betsy Fiske

Chairwoman, Small City Preservation Committee

filed 5-19-04

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

### TITLE: LARGE-SCALE RETAIL INITIATIVE

**Summary by City Attorney:** The Large-Scale Retail Initiative is a land use initiative containing amendments to the Lodi General Plan and the Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code). The Initiative would amend the Lodi Zoning Ordinance to impose a maximum size limitation of 125,000 square feet in gross floor area on retail structures within any zoning district in the City of Lodi. The Initiative defines the term "gross floor area" to include outside retail areas. The Initiative also adds twenty-one recitals to the Zoning Ordinance. Under the Initiative, proposals for retail structures in excess of the size limitations would be subject to both review and approval by the City Council and approval by the voters at a general election. In considering the proposed project, the City Council would be required to comply with the California Environmental Quality Act (CEQA) and any other applicable law. If approved by the City Council, the proposed project would then be submitted to the voters at a general election. The Initiative also adds provisions to the Lodi General Plan requiring compliance with and concerning implementation of this approval process. The Initiative prohibits the City Council from granting variances to the size limitations. Costs incurred by the City in conducting an election held for the purpose of approving a proposed retail structure in excess of the size limitations established by the Initiative would be borne by the applicant for the project unless prohibited by law. The Initiative states that such elections shall be consolidated with other elections if feasible and permits multiple proposals on a single ballot so long as each proposal affecting a discrete property or development project is listed as a separate measure. The Initiative directs that any amendments to the Lodi Planning and Zoning Code adopted after April 16, 2004 that are inconsistent with the Zoning Ordinance amendments contained in the Initiative be amended as soon as possible to be consistent with the Initiative. The Initiative also authorizes the City Council to amend the Lodi General Plan, the Zoning Ordinance, other City ordinances, and City policies to ensure consistency with the goals, objectives and policies of the Initiative. The Initiative states that it does not apply to: (1) projects that have obtained vested rights under state or local law; and (2) land that is not subject to the local initiative power. The Initiative states that it shall be interpreted broadly to achieve the purposes stated in the Initiative, and also that it shall be interpreted to be consistent with state and federal law.

#### TEXT OF PROPOSED MEASURE:

NOW, THEREFORE, the City of Lodi hereby ordains that: The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code, Districts and Map) is amended by the addition of 17.06.050(D), which shall read as follows:

"Retail structures in any district established by this title shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas."

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of the following Sections 17.36.035, 17.36.036, 17.39.035, 17.39.036, 17.30.045, 17.30.046, which include but shall not be limited to these applicable districts:

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.36.035, which shall read as follows:

"Retail structures in the C-1 district shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.30.045 which shall read as follows:

"Retail structures in the C-S district shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas."

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Sections 17.36.036, 17.39.036, 17.30.046, and 17.06.051 which shall read as follows:

"Nothing in this Chapter shall give the City Council the authority to grant a variance from the provisions of 17.36.035, 17.39.035, 17.30.045, and 17.06.050(D) relating to the maximum size of retail structures in any district established by this title, including but not limited to the C-1, C-2, and C-S Districts."

The Lodi General Plan is amended by the addition of Policy 7 to Goal A which shall read as follows:

"The City shall promote preservation of Lodi's small-town and rural qualities by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election."

The Lodi General Plan is further amended by the addition of Policy 6 to Goal D which shall read as follows:

"The City shall promote and support Lodi's downtown development by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election."

The Lodi General Plan is further amended by the addition of Policy 7 to Goal E which shall read as follows:

"The City shall support commercial use development to provide goods and services to Lodi residents and market area by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election."

The City of Lodi's General Plan is hereby amended to add the following Implementing Policy, Policy 17, to read as follows:

"The City shall prepare and implement the requirement for City Council and public voter approval of retail structures in excess of 125,000 square feet in gross floor area in any district established by Lodi's General Plan and Zoning Ordinance."

**To the Honorable Clerk of the City of Lodi:** We, the undersigned, registered and qualified voters of the City of Lodi, hereby propose an initiative measure to amend the City of Lodi's Zoning Ordinance, Lodi Municipal Code, Title 17; and General Plan. We petition you to submit this measure to the City Council for adoption without change, or for the submission to the voters of the City of Lodi at the earliest regular or special election for which it qualifies.

#### NOTICE OF INTENTION TO CIRCULATE PETITION

**NOTICE IS HEREBY GIVEN** by the persons whose names appear hereon of their intention to circulate the petition within the City of Lodi. The measure provides as follows:

#### **Lodi's Sensible Scale and Character Initiative**

The people of the City of Lodi do hereby ordain as follows:

#### **Section 1. Purpose and Findings.**

- A. **Purpose.** The purpose of this Initiative is to protect and preserve the existing community character and fabric, and promote the continuation of neighborhood/community commercial centers and the downtown commercial center. Also, the purpose of this Initiative is to ensure that the purposes and principles set forth in the City of Lodi's General Plan are fully considered by establishing sensibly scaled retail development and maintenance of the City of Lodi's unique character. This action recognizes that large-scaled retail stores affecting the city shall be subject to approval by the City Council and a public vote.
- B. **Findings.** The people of the City of Lodi find that regulating size and bulk of retail stores, through this initiative, promotes the welfare, economy, and quality of life of the residents of Lodi, based upon the following:

#### **1. Regulating Scale of Retail Stores Protects the Unique Character and Quality of Life in Lodi**

An important component of the City of Lodi is maintaining its unique character. Lodi's small-town and rural qualities are a valuable trait of the town. Large-scale retail stores detract from the community's character and aesthetics. Large retail stores are usually located some distance away from residential neighborhoods because they require large sites, which are usually found only in zones outside of the downtown area. Large-scale retail often consists of long, plain facades, a sea of parking, and sparse landscaping. The unique character of the City of Lodi and the quality of life enjoyed by City residents and visitors depend on the protection of the small-town and rural qualities. The protection of such attributes aids the continued viability of the city and brings mental and physical benefits from the broad protection of Lodi residents' quality of life.

#### **2. Strengthening Lodi's Economy.**

It is important to have sensibly scaled retail stores in order to continue to strengthen and sensibly develop Lodi's existing economy. Lodi has a number of



City Council and a public vote in the next general election.

Exhibits. This Initiative does not have any exhibits attached but relies upon the design standards for large-scale stores recently adopted by the City.

## **Section 2. Zoning Ordinance and General Plan Amendments.**

Whereas, the Lodi General Plan establishes a policy framework that forms the City of Lodi's strategy for retail; and

Whereas, the Lodi General Plan and Zoning Ordinance recognize distinct types of shopping centers such as neighborhood/community commercial; general commercial; commercial shopping center; and downtown commercial; and

Whereas, the Lodi General Plan establishes policies encouraging promoting downtown Lodi as the City's social and cultural center and an economically viable retail and professional office district, it promotes locating future commercial retail in downtown Lodi and preserving the existing small-town scale and character of Lodi; and

Whereas, General Plan policies promote and encourage vital neighborhood commercial districts that are evenly distributed throughout the city so that residents are able to meet their basic daily shopping needs at neighborhood shopping centers; and

Whereas, the California Government Code also provides that in order for the ordinance to be consistent with the General Plan, the various land uses authorized by the ordinance should be compatible with the objectives, policies, general land uses, and programs specified in the General Plan; and

Whereas, the Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) has not kept pace with the evolution of the retail sector and fails to adequately distinguish the size, scale and scope of various retail activities; and

Whereas, an emerging national trend exists toward increasing the size of retail stores and the diversity of products offered at such large-scale retail stores; and

Whereas, the establishment of large-scale retail stores in Lodi is likely to negatively impact the vitality and economic viability of the city's neighborhood community commercial and downtown commercial centers by drawing sales away from traditional retail stores located in these centers; and

Whereas, large-scale retail stores adversely affect the viability of small-scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in these areas; and

Whereas, given the city's current population of 60,000, there are currently adequate retail stores to support the market for large-scale retail; and

Whereas, the proposed amendments to the Zoning Ordinance and General Plan are intended to preserve the city's existing neighborhood-serving shopping centers that are centrally located within the community; and

Whereas, this distribution of shopping and employment creates a land use pattern that reduces the need for vehicle trips and encourages walking and biking for shopping, services, and employment; and

Whereas, a significant concern with large-scale retail stores is that they combine neighborhood-serving retail in a more remote, regional-serving retail center which would result in the decline of neighborhood-serving retail stores by consolidating their activity in a single, outlying location; and

Whereas, the remote location of large-scale retail stores means that local residents are forced to drive further for basic services such as groceries, and are forced to take longer and more frequent traffic trips to the regional commercial center to satisfy basic everyday needs, increasing overall traffic and overburdening streets that were not designed to accommodate such traffic; and

Whereas, the proposed amendments to Lodi's Zoning Ordinance and General Plan, by limiting large-scale retail stores, will prevent the negative transportation and related air quality impacts that establishment of such stores is likely to have; and

Whereas, numerous local jurisdictions in the country and the State of California, taking all of the above considerations in mind, have enacted ordinances on new large retail stores over a certain size that either completely prohibit new retail stores over a certain size or require special impact studies; and

Whereas, California jurisdictions that have recently enacted such regulations to help sustain the vitality of small-scale, more pedestrian-oriented neighborhood shopping districts include the Cities of Turlock, Santa Maria, San Luis Obispo, Arroyo Grande, Oakland and Martinez; and

Whereas, a potential discount superstore would directly contravene the approach the City's General Plan established for retail; and

Whereas, the proposed regulations will place stricter controls on the establishment of, or conversion to large-scale stores and would prevent large-scale retail store with potential negative environmental impacts from being established in Lodi, but will not itself generate environmental impacts or necessitate environmental review; and

Whereas, the adoption of these regulations does not approve any development project nor does it disturb the physical environment either directly or indirectly as the regulations modify the limitations of land use by limiting large-scale retail stores that exceed 125,000 square feet of gross floor area and require such projects be approved by the City Council and the citizens' votes in the next general election; and

Whereas, requiring voter approval of land use development of large-scale retail stores that exceed 125,000 square feet of gross floor area will ensure opportunities for full public participation in decisions affecting future land use, quality of life, and character of the City of Lodi.

## **Section 3. Implementation.**

#### **Section 4. Exemptions for Certain Projects.**

This Initiative shall not apply to any of the following: (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law; (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.

#### **Section 5. Elections.**

Except for the renewal or repeal of this Article, any direct or indirect costs to the City of Lodi caused by the elections mandated by this Article shall be borne by the applicants for the large-scale development project in excess of 125,000 square feet, unless otherwise prohibited by state law. Elections mandated by this Article shall be consolidated with other elections, whenever feasible. Different proposals may appear on the same ballot at the same election provided that each separate proposal affecting a discrete property or development project shall be submitted to the voters as a separate measure.

#### **Section 6. Severability and Interpretation.**

This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. This Initiative shall be broadly construed in order to achieve the purposes stated in this Initiative.

#### **Section 7. Amendment or Repeal.**

*Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of the City of Lodi.*

Elizabeth M. Fiske

727 S. Lee Ave.

Lodi, CA 95240

Glenda Hesseltine

727 Brandywine Dr.

Lodi, CA 95240

Walter Pruss

2421 Diablo Dr.

Lodi, CA 95242



## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

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All signers of this petition must be registered to vote in the City of Lodi.

Sign Name 1	Residence Address Only	For Clerks Use Only
Print Name	City	
Sign Name 2	Residence Address Only	For Clerks Use Only
Print Name	City	
Sign Name 3	Residence Address Only	For Clerks Use Only
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Print Name	City	
Sign Name 8	Residence Address Only	For Clerks Use Only
Print Name	City	
Sign Name 9	Residence Address Only	For Clerks Use Only
Print Name	City	
Sign Name 10	Residence Address Only	For Clerks Use Only